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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/011,167	10/05/1998	JOHANNES J. GEUZE	RILE.001.OOU	9536

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EXAMINER

VANDERVEGT, FRANCOIS P

ART UNIT PAPER NUMBER

1644

DATE MAILED: 08/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/011,167

Applicant(s)

GEUZE ET AL.

Examiner

F. Pierre VanderVegt

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

The Examiner in charge of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to F. Pierre VanderVegt, Ph.D. in Art Unit 1644.

This application is a 371 of PCT/NL96/00317.

Claims 1, 5 and 7-12 have been canceled previously.

Claims 2-4, 6, and 13-17 are currently pending and are the subject of examination in the present Office Action.

### ***Continued Prosecution Application***

1. The request filed on June 2, 2003 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/011,167 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Claim Objections***

2. Claims 2-4 and 6 stand objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

The recitation in claim 2 of “The antigen presenting vesicle according to claim 13 wherein said major histocompatibility complex protein is derived from MHC class I or class II” does not further limit base claim 13 which recites “An antigen presenting vesicle ... comprising a major histocompatibility complex (MHC) Class I protein...”

The recitation in claim 3 of “the antigen presenting vesicle according to claim 13 further comprising at least partially processed antigens” does not further limit base claim 13 which recites “An antigen presenting vesicle ... comprising ...one or more at least partially processed antigens...”

The recitation in claim 4 of “The vesicle according to claim 3 wherein said at least partially processed antigens are presented in the context of MHC Class I proteins.” does not further limit the base claim 13 which recites “An antigen presenting vesicle ... comprising a major histocompatibility complex

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(MHC) Class I protein and one or more at least partially processed antigens bound to said MHC Class I protein” because antigens bound to MHC Class I are presented in the context of class I proteins.

The recitation in claim 6 of “The antigen presenting vesicle according to claim 13, wherein said antigen presenting cell is derived from a B lymphocyte, a Langerhans cell, a macrophage or a dendritic cell” does not further limit base claim 13 which recites “An antigen presenting vesicle ... obtainable from a B lymphocyte.”

In the paper filed June 2, 2003, Applicant has not provided any amendment to the claims or any further argument in regard to the outstanding objections. Accordingly, the objections are maintained for the reasons put forth in the Final Office Action mailed December 3, 2002.

### *Claim Rejections - 35 USC § 112*

3. Claims 2, 3, 4 6 and 13-17, stand rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an antigen presenting vesicle comprising a membrane and a MHC Class II protein wherein said antigen presenting vesicle is obtainable from an antigen presenting cell, does not reasonably provide enablement for an antigen presenting vesicle comprising a membrane and any MHC Class I protein, or any functional derivative or fragment thereof, wherein said antigen presenting vesicle is obtainable from any cell. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

In the paper filed June 2, 2003, Applicant has not provided any amendment to the claims or any further argument in regard to the outstanding ground of rejection. Accordingly, the ground of rejection is maintained for the reasons put forth in the Final Office Action mailed December 3, 2002 and as further explained in the Advisory Action mailed May 9, 2003.

4. Claims 2, 3, 4, 6 and 13-17 stand rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

In the paper filed June 2, 2003, Applicant has not provided any amendment to the claims or any further argument in regard to the outstanding ground of rejection. Accordingly, the ground of rejection is maintained for the reasons of record in the Final Office Action mailed December 3, 2002 and as further explained in the Advisory Action mailed May 9, 2003.

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5. Claim 6 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "wherein said antigen presenting cell" in line 2. There is insufficient antecedent basis for this limitation in the base claim 13.

In the paper filed June 2, 2003, Applicant has not provided any amendment to the claim or any further argument in regard to the outstanding ground of rejection. Accordingly, the ground of rejection is maintained for the reasons put forth in the Final Office Action mailed December 3, 2002.

### *Conclusion*

6. No claim is allowed.

7. This is a CPA of applicant's earlier Application No. 09/011,167. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

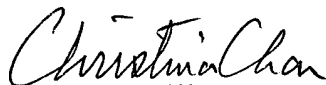
Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Pierre VanderVegt whose telephone number is (703) 305-4441. The examiner can normally be reached on M-Th 6:30-4:00; Alternate Fridays 6:30-3:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of papers must conform with the notice published in the Official Gazette,

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1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 305-3014. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

F. Pierre VanderVegt, Ph.D.  
Patent Examiner  
August 11, 2003

  
**CHRISTINA CHAN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**